IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7564 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VANVASI UTKARSHA MANDELI '

Versus

GOVT. OF GUJARAT

Appearance:

1. Special Civil Application No. 7564 of 1994

MR NS SHETH for Petitioner No. 1

Mr. LR Poojari, AGP for Respondent No. 1

RULE SERVED BY DS for Respondent No. 1-2

MR MC BHATT for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 24/03/2004

ORAL JUDGEMENT

Heard Mr. N.S. Sheth, ld. advocate for the petitioner, Mr. L.R. Poojari, ld. AGP for respondent No.1. and Mr. Hemang Raval, on behalf of A.D. Oza, ld. advocate for respondent No.2. In the present Special Civil Application the petitioner has prayed for quashing and setting aside and/or to delete the name of village

Kalikankar which is at Sr. No. 31 in advertisement dated 23.3.1994.

2. It is submitted on behalf of the petitioner that the petitioner-Trust had applied to Gujarat Secondary Education Board for recognition to start secondary school at Anjani of Khedbrahma Taluka. That by order dated 29.7.1991 the application of the petitioner-trust came to be rejected by the Gujarat Secondary Education Board ('Board' for short). That being aggrieved by the order dated 29.7.1991 the petitioner had preferred an appeal before the State Government and the State Government dismissed the said appeal by order dated 17.6.1993. Being aggrieved by the same the petitioner had preferred Special Civil Application No. 6360 of 1993 before this Court and this Court [Coram: C.K. Thakkar, J.] was pleased to allow the aforesaid Special Civil Application and quashed and set aside the order dated 17.6.1993 passed by the State Government with a direction to decide the appeal in accordance with law after hearing the petitioner.

3. That it is further contended on behalf of the petitioner that hearing was held by respondent No.1 on 16.5.1994 when the petitioner had made submissions and the outcome of the said appeal was awaited.

4. It is further submitted that in the meantime and before the outcome of the said appeal is known to the petitioner the respondent No.2 had issued advertisement dated 23.3.1994 inviting applications for recognition to start secondary schools in different villages where there is no school and two of such villages is Anjani and Kalikankar. Therefore it is apprehended that if permission is granted to another institution to run secondary school in Village Kalikaankar the appeal preferred by the petitioner would become infructuous. It is found from the record that the present Special Civil Application came up for hearing before this Court [Coram: N.N. Mathur, J.] on 8th November 1995. As the learned AGP was not in a position to point out with regard to the outcome of the appeal preferred by the petitioner, this Court vide order dated 8th November 1995 admitted the Special Civil Application and had granted ad-interim relief restraining the respondents from granting permission to open secondary school at Village Kalikankar as shown at Serial No. 31 in advertisement dated 23.3.1994 and till this date the said interim relief is in operation. Today when the matter is called out the ld. advocate appearing on behalf of the respondents is not in position to pointed out whether the appeal

preferred by the petitioner which was heard on 16.5.1994 is decided and disposed of or not and the fact remains that the interim relief granted by this Court on November 8, 1995 restraining the respondents from starting secondary school at Kalikankar is in operation. Under the circumstances, ends of justice will be met if following direction is issued.

5. The respondent No.1 is directed to decide and dispose of the appeal preferred by the petitioner-trust, challenging the order dated 29.7.1991 passed by the Board for which hearing was concluded on 16.5.1994, within a period of 8 weeks from today in accordance with law, if so far not decided, and communicate the decision to the petitioner-trust, and till then the interim relief granted by this Court on November 8, 1995, shall remain in operation. It is clarified that if the appeal preferred by the petitioner-trust is already decided, then the interim relief granted by this Court on November 8, 1995 will not be in operation. Rule is made absolute accordingly with no order as to costs.

[M.R. Shah, J.]
rmr.